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Status of Amendments


No amendments have been filed subsequent to final rejection.

Summary of the Invention

The invention defined by the claims now pending provides an interactive method for people to assist one another in identifying titles to songs, artists of songs, or both. *See Abstract.* The method is preferably performed over a distributed computer network such as the Internet, with some users providing voice clips and others responding with proposed artist or song name identifications (generally referred to as the name of the song) corresponding to the voice clip. *See Abstract.* The voice clip author, in addition to being provided the song name and/or artist, also can be provided with portions of the actual song, the entire song, other tracks from an album or compact disc ("CD"), and perhaps other information concerning the artist, song, era of music, or other relevant content once one or more other users have provided matching identification responses. *See Abstract.* Users can be further provided with an opportunity to purchase songs, albums, cassettes, CDs or other media containing music through a vendor on the Internet. *See Abstract.*

The invention defined by independent claim 6 (which is included in Group I) is directed toward an aspect of the invention in which an award can be provided to a user who has responded to a downloaded voice clip with a response that satisfies a predetermined criterion. The voice clip author is electronically notified in the event that the predetermined criterion is satisfied. *See Page 3, line 21 - page 4, line 4.* This aspect of the invention is described in detail in Figure 5B and the accompanying text in the Specification at page 12, line 9 through page 13, line 16.

The invention defined by dependent claim 7 (which is included in Group II) is directed toward a further aspect of the invention in which an award is provided to a user who has responded to a downloaded voice clip with a response that satisfies a predetermined criterion. The voice clip author is electronically notified in the event that the predetermined criterion is satisfied. *See Page 3, line 21 - page 4, line 4.* In the method of this claim 7, the predetermined criterion is more particularly recited as being a match within prescribed parameters of plural responses from other

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users concerning the same voice clip. Page 4, lines 4-6. This aspect of the invention is described in detail at page 12, line 17 through page 13, line 4 of the Specification.

The invention defined by independent claims 1 and 12 (which are included in Group III) is directed toward a further aspect of the invention concerning a methodology in which in which voice clip authors input and post voice clips to a server connected to the Internet, optionally (“selectively”) with further information relating to the song. These steps are described in Figures 3A and 3B and the accompanying text of the Specification at page 8, line 3 through page 9, line 7. Multiple human users are permitted access to these voice clips and any further information that has been provided by the voice clip author, and such users are permitted to post the name of the song to the server (or, equivalently, the name of the performing artist), if known to them, as described in Figure 5B and the accompanying text in the Specification at page 12, line 9 through page 13, line 16. Voice clip authors receive an electronic notification from the server that the song in their voice clip has been identified, in accordance with this claimed method, as described at step 524 of Figure 5B and elsewhere in the Specification.

The invention defined by independent claim 21 (which is included in Group IV) is directed toward yet another aspect of the invention and, more particularly, concerns a methodology from a server-perspective in which in which a community of users is fostered by receiving from a first one of a number of human at a client machine users a voice clip, presenting that voice clip to additional human users, permitting those additional users to post the name of the song (or, equivalently, the name of the performing artist), and selectively providing an electronic notification concerning the name of the song in the voice clip to the client machine. The steps of this method are described in the same portions of the specification that has been identified above.

Issues Presented on Appeal

Four issues are presented for review in this Appeal:

1. Whether the Examiner erred in concluding that Palm (US 2001/0042107 A1) in view of Rasmussen et al. (U.S. Patent No. 6,343,990) renders the subject matter of the pending claims in Group I obvious.

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2. Whether the Examiner erred in concluding that Palm in view of Rasmussen et al. renders the subject matter of the pending claims in Group II obvious.
3. Whether the Examiner erred in concluding that Fritsch (U.S. Patent No. 6,247,130) in view of Rasmussen et al. and in further view of Ghias (U.S. Patent No. 5,874,686) renders the subject matter of the pending claims in Group III obvious.
4. Whether the Examiner erred in concluding that Fritsch in view of Rasmussen et al. and in further view of Ghias renders the subject matter of the pending claims in Group IV obvious.

Grouping of Claims

For the purpose of the present appeal, Applicants request that claims be grouped as follows:

Group I: Claims 6, 8-11;

Group II: Claim 7;

Group III: Claims 1-5 and 12-20; and


Group IV: Claims 21-24

Argument

Introduction

This Appeal Brief is being filed in response to the Official Action mailed on July 15, 2004. Claims 1-24 are pending in this application. Applicant makes the following remarks with respect to the independent claims in each of the claim groupings, unless otherwise expressly noted.

The Examiner provides comments responsive to Applicant's arguments in an Advisory Action mailed on November 4, 2004. Applicant notes that the Examiner's continued reliance on portions of Palm (e.g., paragraph [0006] as allegedly teaching the features of step 6(c)) that have been addressed in Applicant's prior responses. Insofar as the Advisory Action provides no further basis for maintaining the rejections of Groups I and II, Applicant has instituted this appeal.

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Group I: Claims 6, 8-11

In the outstanding Office Action, the pending claims were rejected as being obvious over Palm in view of Rasmussen. According to the Examiner, Palm teaches each of the elements recited in claim 6, except step (d), “awarding a benefit to the user for the response provided that at least one predetermined criterion is satisfied.” For this feature, the Examiner relies upon secondary reference Rasmussen and contends that persons of ordinary skill in the art would have been motivated to modify Palm in view of Rasmussen in order to “encourage users participation and contribution of material and attracting more users to visit the web site for sales increasing.” However, the Examiner’s reliance on Rasmussen is misplaced.

The Palm patent concerns an audio player that is connected through a network so as to provide multiple song files to a user through a hierarchy of menu screens. The user can select and play back songs stored on different machines, from various categories and radio stations.

The Rasmussen patent concerns a website at which users can vote on the submissions of other users. The illustrative embodiment is a forum for voting on jokes, but the Rasmussen patent clearly has applicability to other submissions such as music input by users. When casting a vote on a user's submission, the voter's account is debited and the votee's account is credited. Popular submissions will garner many votes and the resulting credits can be used for various benefits.

In **claim 6**, a user can download and play a voice clip and selectively provide a response which includes a song name or artist's name. According to step 6(d), that user is awarded a benefit for providing a response that matches predetermined criteria. In contrast, the user in Rasmussen is charged for casting a vote on another user's submission by having his or her account debited. Thus, even assuming that a mere vote could correspond to the claimed response which includes a song name or an artist's name --and Applicant does not concede that such correspondence is correct, the proposed combination of Palm with Rasmussen would be substantially different. Consequently, the rejection over the combination of Palm modified in view of Rasmussen should be withdrawn.

Aside from the failure of the proposed combination with Rasmussen to result in a method that meets the limitations of claim 6, there are many other deficiencies in the teachings of Palm relative to claim 6 that are not acknowledged in the outstanding office action.

For example, there are no “voice-clip authors” as recited in step 6(a) and so there can be no playing of the voice clip at the client machine as recited in step 6(b). Also, Palm never even hints at step 6(c), “selectively providing a response . . . including a song name or artist’s name” because there are no “responses” in Palm that identify the song or author of the voice clip. At most, further requests for further songs are provided from a client machine, but these are unrelated to any voice clip that has been downloaded to the client machine.

Moreover, Palm never causes an electronic notification to be sent to a voice clip author, as recited in step 6(e). The Examiner cites to paragraph [0006] in support of his contention that a corresponding notification is taught by Palm, but that is not a fair reading of Palm. That paragraph teaches, quite to the contrary, that protocols and formats must be established “before the transmission of the actual media.” The electronic notification of step 6(e) is after a series of interactions including downloading to a client machine, playback at the client machine, and the providing of a response to the web server. The protocol and format establishment of Palm precedes all of the steps of claim 6. No where else does Palm describe notifications as recited in claim 6.

Neither does Rasmussen provide responses as recited in step 6(c) that identify a song name or an artist’s name. Instead, there is a mere vote. Nor does Rasmussen provide notifications of the type recited in step 6(e). The only notifications are e-mail messages sent by one user to another (see 6:58-65) rather than a notification in response to a predetermined criteria.

For the foregoing reasons, claims 6, 8-11 are not obvious over Palm in view of Rasmussen and the Section 103 rejection should be overturned.

Group II: Claim 7

With particular regard to **claim 7**, the Examiner has considered the feature of this claim in the Advisory Action which Appellant submits departs from the proposed combination of references. Claim 7 recites that the “at least one predetermined criterion is that plural responses from other

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users concerning the same voice clip match within prescribed parameters.” As acknowledged by the Examiner, Palm does not award benefits to users at all. Rasmussen permits voting which results in a benefit (credit) to the votee (and a detriment in the form of a debit to the voter), but Rasmussen teaches one vote being cast for each response and never suggests that a criterion for awarding a benefit be that plural votes are received before such an award.

The Examiner cites to column 3, lines 1-5 of Rasmussen [erroneously identified as Fritsch ‘130 in the Advisory Action], but that disclosure is different than the method recited in claim 7. Rasmussen teaches at col. 3 that a first participant cannot see another participant’s results until the first has transferred credits to the second participant. But in claim 7, that is not what is recited at all. Rather, claim 7 concerns that responses of several different users which, if those responses match one another, cause the voice-clip submitter to receive an award.

The criterion of plural responses that match within prescribed parameters is a substantial difference over the proposed combination because it prevents notifications from being sent out prematurely. Thus if two users identify the song as “Jumping Jack Flash” and “Brown Eyed Girl,” respectively, a notification would typically not be sent because the responses to the voice clip do not match within prescribed parameters (they are different songs). A third user identifying the song as “Jumping Jack Flash,” however, would result in an electronic notification. The proposed combination does not disclose or suggest this methodology, let alone electronic notifications of this type, and so the further features of claim 7 are submitted to define patentably over the proposed combination.

For the foregoing reasons, claim 7 is submitted to be patentable over the cited references and the rejection should be overturned.

Group III: Claims 1-5 and 12-24

Claims 1-5 and 12-24 stand rejected as being obvious over Fritsch in view of Rasmussen and in further view of Ghias et al. Applicant respectfully traverses this rejection.

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The Fritsch patent concerns a system for downloading for purchase music files. The user can search for songs such as by reviewing categories.

The Rasmussen patent is discussed above.

The Ghias patent concerns a method in which voice clips are input by a microphone and matched electronically, using a pitch-change-analyzing search-engine, to locate songs in a database. The songs are either identified or played back upon determining a match.

Applicants agree with the position stated by the Examiner in the Office Action made final that it would be within the ordinary skill in the art to modify Fritsch to include the microphone-based interface of Ghias in order to permit songs to be selected by entering a voice clip rather than the input methodologies noted by Fritsch for selecting a song (step 1(a)). However, it must be recognized that Fritsch delivers to a user who has input a song request the song that was requested. That user's input (the voice clip) is not delivered to another user. Thus, in accordance with Fritsch a user navigates a cursor to select a song, and that navigation/selection is never provided to another user. The proposed modification in view of Ghias would permit the user to select a song using a voice clip sung into a microphone, but there is no reason or suggestion that the song selection now be sent to some other user merely because it was entered into a microphone rather than being selected using a cursor.

Thus, even were a voice clip entered via a microphone, that voice clip would not be available to other users of the Fritsch system, and certainly there is no basis to conclude that such voice-clip song selections would be made available “to a human visitor to the server” as recited in step 1(d) or that such persons would be permitted “to post the name of the song to the server” as recited in step 1(e). For this reason, the proposed further modification in view of Rasmussen is merely hindsight-reconstruction of the claimed invention.

The comments in the Advisory Action failed to address the critical distinction and, impart, prompted Appellant to initiate this appeal.

The Examiner incorrectly contends that one of skill in the art would be motivated to modify Fritsch in view of Ghias in view of Rasmussen to “encourage users participation and contribution of material and attracting more users to visit the web site for sales increasing.” Claim 1(e) recites the step of “permitting multiple human visitors to post the name of the song to the server.” It is not understood how “permitting multiple human visitors to post the name of a song” would increase sales. The Examiner does not address the fact that multiple visitors could post different names for the song and as a result customers could end up confused.

In any event, Rasmussen does not teach or suggest the receipt “at the client machine of an electronic notification from the server that the song has been identified,” as recited in step 1(f), because all Rasmussen teaches is a simple vote or complaint on another user’s submission. Consequently, all that Rasmussen can impart to Fritsch is a simple vote or complaint and not this further step.

Finally, with regard to steps (b) and (c) of claim 1, the Examiner cites to Fritsch as teaching these steps. However, these particular steps relate to the provision of the voice clip from a client machine to a server and the provision of further information to the server and not to the delivery of songs *to* the client machine. Steps (b) and (c) recite communications in the opposite direction than that of Fritsch because those steps concern the transmission of an input voice clip from the client machine to the server. By way of analogy, this is the song selection step described by Fritsch and not the downloading of songs. Accordingly, the Examiner’s reliance on Fritsch as teaching these steps is incorrect.

With regard to claim 12, claim 12 is submitted to be allowable over the proposed combination of references because it includes each of the features of claim 1. In addition, claim 12 is more particularly concerned with steps that operate using the microphone of a “telephone” and which include the input of “first user identification information” into the telephone and receipt of notification “in response to receipt of the first user identification information.” These further features are not disclosed or suggested in any of the cited documents, and so independent claim 12 cannot be rendered obvious by the proposed combination of references.

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For all of these reasons, Applicant submits that claims 1 and 12 define patentably over the proposed combination of references and that the rejection should be overturned.

Group IV: Claims 21-24

With regard to independent claim 21, it too defines over the proposed combination in reciting the presentation “for download and playback by additional human users among the community of users the voice clip received from the first user,” as recited in step 21(b). A voice clip, if utilized by modifying Fritsch in view of Ghias, is never sent to other users in a community of users. Consequently, there is no ability for other human users to post any data relating to the voice clip as recited in step 21(c), whether it is the name of the song or a simple vote. Finally, there are no notifications as recited in step 21(d). Accordingly, claim 21 cannot be rendered obvious by the proposed combination of references and the rejection should be overturned.

Respectfully submitted,

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APPENDIX

1. (Previously Presented) A method for identifying the name of a song input by a first user:
 - a. inputting a voice clip of a portion of the song into a microphone connected to a client machine;
 - b. providing the voice clip to a server connected to the Internet;
 - c. selectively providing further information relating to the song to the server;
 - d. making the voice clip and any further information available to a human visitor to the server;
 - e. permitting multiple human visitors to post the name of the song to the server; and
 - f. receiving at the client machine an electronic notification from the server that the song has been identified.
2. (Original) The method as in claim 1, wherein the electronic notification includes a hypertext link to a predetermined page constructable by the server.
3. (Original) The method as in claim 1, wherein the electronic notification includes at least one of the name of the song and the artist.
4. (Previously Presented) The method as in claim 1, including the additional steps at the server of:

a. receiving plural responses to the first user's voice clip from plural additional human users who are not the first user;

b. testing the responses the first user's voice clip for matching data concerning at least one of the name of the song and the artist's identity; and

c. transmitting to the client machine the electronic notification only in the event that a predetermined number of responses include matching data.

5. (Previously Presented) The method as in claim 4, including the additional step of issuing a benefit to those additional human users who submitted responses that had matching data.

6. (Previously Presented) A method for fostering a community of users at a Web site, comprising the steps of:

a. downloading a voice clip created by a voice-clip author to a user at a client machine from the Web site;

b. playing the voice clip at the client machine;

c. selectively providing a response from the client machine to the Web site the response including a song name or artist's name;

d. awarding a benefit to the user for the response provided that at least one predetermined criterion is satisfied; and

e. electronically notifying the voice-clip author in the event that said at least one predetermined criterion is satisfied.

- d. making the voice clip and any further information available to a human visitor to the server;
- e. permitting multiple human visitors to post the name of the song to the server; and
- f. receiving an electronic notification from the server that the song has been identified, the electronic notification being received at a client machine in response to receipt of the first user identification information.

13. (Original) The method as in claim 12, wherein the electronic notification includes a hypertext link to a predetermined page constructable by the server.

14. (Original) The method as in claim 12, wherein the electronic notification includes at least one of the name of the song and the artist.

15. (Original) The method as in claim 12, including the additional steps at the server of:

- a. receiving plural responses to the first user's voice clip from plural additional users who are not the first user;
- b. testing the responses the first user's voice clip for matching data concerning at least one of the name of the song and the artist's identity; and
- c. transmitting to the client machine the electronic notification only in the event that a predetermined number of responses include matching data.

16. (Original) The method as in claim 15, including the additional step of issuing a benefit to those additional users who submitted responses that had matching data.

17. (Original) The method as in claim 12, wherein the first user identification information is received automatically from the client machine upon accessing the server.

18. (Original) The method as in claim 12, wherein the first user identification information is received automatically from a cookie stored on the client machine.

19. (Original) The method as in claim 12, wherein the first user identification information is received from the client machine in response to manual input by the first user.

20. (Previously Presented) The method as in claim 8, including the additional step of playing a first voice clip among the plural voice clips while a next voice clip among the plural voice clip is loaded into a buffer memory of the client machine.

21. (Previously Presented) A method for fostering a community of users at a Web site, comprising the steps of:

a. receiving at a server associated with the Web site a voice clip of a portion of a song from a first human user among the community of users, the first human user being connected to the server at a first client machine;

- b. presenting for download and playback by additional human users among the community of users the voice clip received from the first user;
- c. permitting multiple ones of the additional human users to post a name of the song to the server; and
- d. selectively providing to the first client machine an electronic notification concerning the name of the song in the voice clip.

22. (Previously Presented) The method of claim 21, including the additional step of awarding a benefit to the additional human users that have posted the name of the song to the server provided that at least one predetermined criterion is satisfied.

23. (Previously Presented) The method of claim 21, wherein said at least one predetermined criterion comprises a test of the name of the song posted by one of the additional human users for matching data provided by another of the additional human users.

24. (Previously Presented) The method of claim 23, including the additional step of issuing a benefit to those additional human users who submitted responses that had matching data.